

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

STATE OF NEW YORK, and ALEXANDER B. GRANNIS, as COMMISSIONER OF NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION,	:	x
Plaintiffs,	:	07-CV-4231 (ENV) (ALC)
vs.	:	STIPULATION OF VOLUNTARY DISMISSAL PURSUANT TO RULE 41(a)(1)(A)(ii)
WEST SIDE CORP., SHELDON F. SCHIFF, DOW CHEMICAL COMPANY, ETHYL CORPORATION and PPG INDUSTRIES, INC.,	:	
Defendants.	:	
	:	
	:	
	x	

WHEREAS, the State commenced this action against West Side Corp., Sheldon F. Schiff, Dow Chemical Company ("Dow"), Ethyl Corporation ("Ethyl") and PPG Industries, Inc. ("PPG") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), and New York's common law of public nuisance, restitution, and indemnification seeking to recover response costs that have been and will be incurred by the State in responding to the release or threatened release of hazardous substances at property located at 107-10 180th Street in Jamaica, Queens, New York;

WHEREAS, the State alleged that Defendants Dow, Ethyl and PPG either arranged for the disposal of hazardous substances at, or transported hazardous substances to, the Site and that Defendants Dow, Ethyl and PPG are jointly and severally liable for

all response costs incurred and to be incurred by the State in responding to releases of hazardous substances at the Site pursuant to CERCLA §§ 107(a)(3) & (4) and 113(g)(2), 42 U.S.C. §§ 9607(a)(3) & (4) and 9613(g)(2);

WHEREAS, on July 22, 2009, following the Supreme Court's decision in *Burlington Northern and Santa Fe Ry. Co. v. U.S.*, 556 U.S. 599 (2009), the State voluntarily dismissed with prejudice the claims brought pursuant to CERCLA §§ 107(a)(3) & (4), 42 U.S.C. §§ 9607(a)(3) & (4) against Defendants Dow, Ethyl and PPG;

WHEREAS, by Memorandum and Order, dated June 3, 2011, the Court dismissed the State's claims for public nuisance and indemnification; and

WHEREAS, Defendants Dow, Ethyl and PPG deny liability on each and every remaining cause of action asserted by the State;

IT IS HEREBY STIPULATED AND AGREED, by and through the undersigned counsel, that pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the State dismisses all claims against the Defendants Dow, Ethyl and PPG with prejudice, without costs or attorneys' fees to any party.

STATE OF NEW YORK
ERIC T. SCHNEIDERMAN
Attorney General of the State of New
York

Dated: December 12, 2011
New York, New York

By:

Pedro Medina *by (pd)*
Pedro Medina
Assistant Attorney General
Environmental Protection Bureau
120 Broadway, 26th Floor

New York, New York 10271
(212) 416-8464

ETHYL CORPORATION

Dated: December 12, 2011
Newark, New Jersey

By:

Alan E. Kraus
Alan E. Kraus, Esq.
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Newark, New Jersey 07101
Phone: 973-639-1234

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PPG INDUSTRIES, INC.

Dated: December , 2011
New York, New York

By: _____
Paula J. Schauwecker, Esq.
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477 Madison Avenue
New York, NY 10022
Phone: 212-702-5407

DOW CHEMICAL COMPANY

Dated: December 12, 2011
Chicago, Illinois

By: _____

Steven Siros, Esq.
Jenner & Block
353 North Clark
Chicago, IL 60564
Phone: 312-923-2717

**WEST SIDE CORP. and
SHELDON F. SCHIFF**

Dated: December , 2011
New York, New York

By: _____
John Curran, Esq.
Tannenbaum Helpern Syracuse &
Hirschtritt LLP
900 Third Avenue
New York, NY 10022
Phone: 212-508-6717

So Ordered

**The Honorable Eric N. Vitaliano
United States District Judge
Eastern District of New York**

Date:

PPG INDUSTRIES, INC.

Dated: December , 2011
New York, New York

By: _____

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DOW CHEMICAL COMPANY

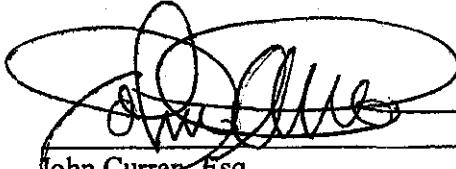
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DOW CHEMICAL COMPANY

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So Ordered

s/ ENV

The Honorable Eric N. Vitaliano Date:
United States District Judge
Eastern District of New York